

Notice of Allowability

Application No.

10/761,978

Examiner

Bruce E. Snow

Applicant(s)

COHEN ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/29/07.
2. ☒ The allowed claim(s) is/are 1-7,9-15,17-26,38-41 and 43-46.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

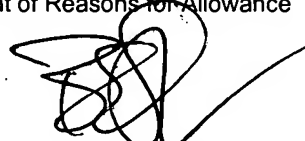
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date herewith.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


BRUCE SNOW
PRIMARY EXAMINER

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Gloria Tsui-Yip on 5/23/07.

The application has been amended as follows:

Claims 8, 16, 27-37, and 42 have been cancelled.

The following claim have been replaced:

Claim 22. --An artificial disc for placement between adjacent vertebrae comprising:

at least one upper substantially flat plate member and one lower substantially flat plate member, each plate member having corresponding outer and inner bearing surfaces;

at least one flexible supporting means interposed between said upper and lower plate members and abutting said corresponding inner bearing surfaces, said flexible support means flexibly and compressibly supporting said upper and lower plate members to allow compression of the adjacent vertebrae; and

means for temporarily stabilizing said flexible supporting means for a certain period of time to allow at least two of said outer bearing surfaces to osteo-integrate with the adjacent vertebrae, wherein said temporarily stabilizing means is spaced from said upper or lower substantially flat plate members to allow limited tilting of said upper and lower substantially flat plate members with respect to each other; and

a substance that promotes osseous integration and bone in-growth adjacent to said plate members.--

Claim 23. --An artificial disc for placement between adjacent vertebrae comprising:

at least one upper substantially flat plate member and one lower substantially flat plate member, each plate member having corresponding outer and inner bearing surfaces;

at least one flexible supporting means interposed between said upper and lower plate members and abutting said corresponding inner bearing surfaces, said flexible support means flexibly and compressibly supporting said upper and lower plate members to allow compression of the adjacent vertebrae; and

means for temporarily stabilizing said flexible supporting means for a certain period of time to allow at least two of said outer bearing surfaces to osteo-integrate with the adjacent vertebrae, wherein said temporarily stabilizing means is spaced from said upper or lower substantially flat plate members to allow limited tilting of said upper and lower substantially flat plate members with respect to each other; and

a substance with hemostatic drug eluting factors to control bleeding adjacent to said plate members.--

Claim 25. --An artificial disc for placement between adjacent vertebrae comprising:

at least one upper substantially flat plate member and one lower substantially flat plate member, each plate member having corresponding outer and inner bearing surfaces;

at least one flexible supporting means interposed between said upper and lower plate members and abutting said corresponding inner bearing surfaces, said flexible support means flexibly and compressibly supporting said upper and lower plate members to allow compression of the adjacent vertebrae; and

means for temporarily stabilizing said flexible supporting means for a certain period of time to allow at least two of said outer bearing surfaces to osteo-integrate with the adjacent vertebrae, wherein said temporarily stabilizing means is spaced from said

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upper or lower substantially flat plate members to allow limited tilting of said upper and lower substantially flat plate members with respect to each other; and

a substance with anti-tumor drugs to control or eradicate tumors adjacent to said plate members.--

Claim 26. --An artificial disc for placement between adjacent vertebrae comprising:

at least one upper substantially flat plate member and one lower substantially flat plate member, each plate member having corresponding outer and inner bearing surfaces;

at least one flexible supporting means interposed between said upper and lower plate members and abutting said corresponding inner bearing surfaces, said flexible support means flexibly and compressibly supporting said upper and lower plate members to allow compression of the adjacent vertebrae; and

means for temporarily stabilizing said flexible supporting means for a certain period of time to allow at least two of said outer bearing surfaces to osteo-integrate with the adjacent vertebrae, wherein said temporarily stabilizing means is spaced from said upper or lower substantially flat plate members to allow limited tilting of said upper and lower substantially flat plate members with respect to each other; and

a substance with pain-controlling factors to control pain adjacent to said plate members.--

--The first paragraph of the specification has been replaced with the following:


This is a division of pending application Serial No. 10/072,163, filed February 7, 2002, now U.S. Patent no. 6,719,796, which is a continuation of pending application Serial No. 09/360,796, filed July 26, 1999, now U.S. Patent No. 5,454,806, both of which are hereby incorporated by reference.--

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce E. Snow whose telephone number is (571) 272-4759. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BES



BRUCE SNOW
PRIMARY EXAMINER